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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,524	01/30/2002	Jeffrey D. Jacobson	JACO-006	5773
7590	11/26/2003		EXAMINER	
Michael S. Neustel 2534 South University Drive, Suite No.4 Fargo, ND 58103			SHRIVER II, JAMES A	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 11/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/059,524	JACOBSON, JEFFREY D.
	Examiner J. Allen Shriver	Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 September 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7 and 9-21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 1-7,9,10 and 21 is/are allowed.

6) Claim(s) 11-17,19 and 20 is/are rejected.

7) Claim(s) 18 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 08 September 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6) Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's submittal of an amendment was received on September 8, 2003, wherein claims 1 and 11 were amended, claim 8 was cancelled and new claim 21 was added.

Drawings

2. The drawings were received on September 8, 2003. These drawings are approved.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. **Claims 11-14, 16-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denning (US Patent 1,526,904) in view of Koblick (US Patent 4,004,355).**

Denning discloses a ski system (See Figs. 1-2) having a base member (10) having an upper surface, a pair of opposing side edges that are parallel to one another, and a lower surface (See Fig. 2); a securing structure (12-14) attached to the upper surface of the base member for catchably receiving a shoe (See Fig. 2); and a plurality of gripping members (25) attached to and extending downwardly from said lower surface, wherein each of said plurality of gripping members has a front portion (26) for gliding upon a snow surface allowing forward movement and a rear portion (28) for engaging the snow surfaces for preventing rearward movement;

wherein said front portion is tapered upwardly and forwardly to said lower surface of said base member (See Fig. 2 and column 3, line 16-21); wherein said front portion is curved upwardly and forwardly to said lower surface of said base member (See Fig. 2); wherein the rear portion extends upwardly to the lower surface of the base member; wherein said rear portion is comprised of a closed structure; wherein said base member includes a front lip (11) curved upwardly; and wherein said securing structure is comprised of a receiver structure (21) for receiving the rear portion of the shoe, a first strap attached to said base member and a second strap attached to said base member, wherein said straps may be connected about a front portion of said shoe (See Fig. 2).

Denning discloses a ski system as set forth above, but does not disclose a first sidewall extending from said base member, and a second sidewall extending from said base member, wherein said sidewalls include a plurality of apertures within for receiving a securing strap that secures a shoe upon said base member, and wherein said first sidewall and said second sidewall extend upwardly from said opposing side edges of said base member in a parallel manner.

Koblick discloses a ski system having a first sidewall (20) extending from said base member, and a second sidewall member (20) extending from said base member, wherein said sidewalls include a plurality of apertures (32,36,40) within for receiving a securing strap (14) that secures a shoe (24) upon said base member (See Fig. 1), and wherein said first sidewall and said second sidewall extend upwardly from said opposing side edges of said base member in a parallel manner. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide Denning with sidewalls with apertures for receiving the securing straps in

view of the teaching of Koblick. The motivation for doing so would have been to more securely fasten the boat to the base member of the ski.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denning (US Patent 1,526,904) in view of Koblick (US Patent 4,004,355) as applied to claim 11 above, and further in view of Eder (WO 93/24192). The combination of Denning and Koblick discloses a ski system as set forth above, but does not disclose wherein the rear portion extends upwardly and at a forward angle to the lower surface of said base member. Eder discloses wherein the rear portion (See Fig. 1) extends upwardly and at a forward angle to the lower surface of the base member. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to extend the rear portions disclosed in the combination of Denning and Koblick at a forward angle to the lower surface of the base member as taught by Eder. The motivation for doing so would have been to provide greater means for walking up an inclined surface without slipping.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denning (US Patent 1,526,904) in view of Koblick (US Patent 4,004,355) as applied to claim 11 above, and further in view of Stewart (US Patent 3,965,585). The combination of Denning and Koblick discloses a ski system as set forth above, but does not disclose wherein the straps are comprised of an elastic material. Stewart discloses wherein said straps are comprised of an elastic material (23,24). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to substitute the elastic material disclosed in Stewart for the straps disclosed in the combination of Denning and Koblick. The motivation for doing so would have

been to allow the user to quickly disengage the securing straps from their boot as opposed to having to unbuckle the securing strap as disclosed in the combination of Denning and Koblick.

Allowable Subject Matter

7. Claims 1-7, 9-10 and 21 are allowed over the prior art. Regarding the allowability of claims 1, 18 and 21, the prior art did not disclose wherein the plurality of gripping members are aligned in three parallel rows along a longitudinal axis of said base member. Denning discloses a ski having gripping members running transverse along the bottom surface of the ski, but does not disclose the gripping members being aligned in three parallel rows. Wright was previously used as a reference to these features, however, Wright discloses air-carrying channels for a water ski, and not gripping members for a snow ski.

8. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed September 4, 2003 have been fully considered but they are not persuasive. With respect to independent claim 1, Examiner agrees with Applicant that there is no motivation provide in the prior art to arrange the gripping members disclosed in Denning in aligned three parallel rows along a longitudinal axis of said base member.

Pursuant to claim 11, Applicant argues that there is no motivation to combine Koblick with Denning. In response to applicant's argument that the references must explicitly provide a

suggestion for combining, a conclusion of obviousness may be made from common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference (see *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969)), with skill being presumed on the part of the artisan, rather than the lack thereof (see *In re Sovish* 769 F.2d 738, 742, 226 USPQ 771, 774 (Fed. Cir. 1985)); further, references may be combined although none of them explicitly suggests combining one with the other (see *In re Nilssen* 7 USPQ2d 1500 (Fed. Cir. 1989)). In this case, a person of ordinary skill in this art would have the requisite skill to provide Denning with sidewalls as taught by Koblick.

Conclusion

10. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

J. Allen Shriver
Examiner
Art Unit 3618

JAS


BRIAN L. JOHNSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
11/17/03